

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT : HYDERABAD

26

O.A.No.483 of 1987

Date of Order: 8-3-1990

1. Pattapu Sessaiah
2. G.Sayanna
3. K.Sreenivasa Rao
4. K.Yesupadam
5. K.Raja Rao
6. M.Guravaiah
7. M.Balaswamy
8. V.Venkateswarlu
9. V.Ananda Rao
10. B.Moshe

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APPLICANTS

AND

1. The Sr.Divisional Personnel Officer,
South Central Railway, Vijayawada.
2. The Divisional Engineer, South Central
Railway, Vijayawada.
3. The Assistant Engineer, South Central
Railway, Vijayawada.
4. The Chief Permanent Way Inspector(North),
South Central Railway, Vijayawada.
5. K.Krupanandam
6. V.Michael
7. T.Venkataratnam
8. C.Raghavanna
9. P.Sivanandam
10. K.Abraham
11. K.Bullaiah
12. G.Ramesh

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RESPONDENTS

Appearance

For the Applicants .. Shri P.Krishna Reddy, Advocate.

For the Respondents .. Shri P.Venkatrama Reddy, Standing
1 to 4 .. Counsel for Railways.

For Respondents 5 to 12.. Neither of them in person nor
represented by their Counsel present

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THE HON'BLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HON'BLE SHRI D.SURYA RAO, MEMBER(JUDICIAL).

(JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N.JAYASIMHA,
VICE-CHAIRMAN.)

1. All the applicants herein ^{were} originally appointed as
Casual Labourers and they attained temporary status. ^{they}

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are working in the Unit of the 4th respondent for more than 8 to 9 years without any break in service. They state that 2 years ^{ago} ~~back~~ respondents 5 to 10, who were working in restoration works, came to the Unit of the 4th respondent and their service in the 4th respondent's unit is less than two years. They also state that even though the applicants are working under the respondents 1 to 4 for nearly 10 years and they have attained temporary status 8 years back, so far they were not screened and they were not absorbed as regular Class IV employees. Under the impugned proceedings dated 16-7-1987 issued by the 1st respondent, the names of respondents 5 to 10 were shown, whereas the names of the applicants were omitted. It is contended that respondents 5 to 10, who have put in only 1½ years service in the unit of the 4th respondent, should not have been considered in preference to the applicants, who have put in more than 7 to 8 years, for the purpose of screening and regularisation. The applicants therefore seek a direction to declare that the screening held in pursuance of letter No.B/P.407/VII/BZA/Screening, dated 16-7-1987 issued by the first respondent as illegal and without jurisdiction. They also seek a further direction to the first respondent to hold screening on the basis of seniority of the applicants and other workmen based on the length of service in the unit of the 4th respondent taking into consideration the seniority based on the date of attaining of temporary status.

2. On behalf of the respondents 1 to 4, a counter has been filed stating that when screening is undertaken, all the Casual Labourers in a particular unit will be considered. Casual Labourers, who ^{have} ~~are~~ put in more number of years of service

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in the same unit or other units will be given preference in the matter of filling up posts/vacancies on regular basis. It is further stated that the total number of days of service as on 30-6-1985 put in by the 1st applicant is 2,636 days, and the 10th applicant is 2,529 days, whereas the total number of days of service as on 30-6-85 put in by the 5th respondent is 4,653 days and the 12th respondent is 2,671 days. Thus all the applicants have rendered lesser number of days of service than respondents 5 to 10. Therefore, there is no ~~illegality or~~ discrimination in not empanelling the applicants in preference to respondents 5 to 10. Regarding the contention that the unit seniority alone should be taken into consideration, it is stated that though the Casual Labourers are not ordinarily transferable from one unit to another, but there is no such inflexible rule. In fact the applicants themselves have been transferred to the Unit of the Chief Permanent Way Inspector (North) from some other unit. For the purpose of empanelment, the Railways have always been taking into account the aggregate length of service but not the date of entry into the unit. In accordance with this principle, the applicants could not be called for scrutiny as there were only 7 vacancies and only 10 Casual Labourers were called for screening and 7 of them, who are the senior-most, have been empanelled on 17-8-1987. After empanelment, four of the respondents have been absorbed permanently as Gangmen on 14-9-1987. A circular dated 15-5-1987 was also issued wherein it was decided that ex-restoration works labour working under Permanent Way Inspector (North) and Permanent Way Inspector, Bheemavaram, will be screened alongwith the regular casual labourers of the respective P.W.I. units in the order of their length of service as on 30-6-1985. This was done after

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To:

1. The Senior Divisional Personnel officer, south central railway, Vijayawada.
2. The Divisional Engineer, south central railway, Vijayawada.
3. The Assistant Engineer, south central railway, Vijayawada.
4. The Chief Permanent Way Inspector(North), south central railway, Vijayawada.
5. One copy to Mr.P.Krishna Reddy, Advocate, 3-5-899, Himayatnagar, Hyderabad.
6. One copy to Mr.P.Venkatarama Reddy, SC for Railways., CAT., Hyderabad for RR 1 to 4.
7. One spare copy.

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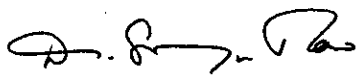
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discussion with the organised labour. Hence, there is no irregularity or illegality in the process of screening and therefore the respondents 1 to 4 contend that there are no merits in the applicant and the same be dismissed.

3. We have heard Shri P. Krishna Reddy, Counsel for the applicants and Shri P. Venkatrama Reddy, Standing Counsel for the Railways. From the facts stated above, it would appear that the criterion adopted for the purpose of seniority viz. the length of service could not be assailed. What Sri Krishna Reddy, however, urges is that for the purpose of taking the length of service, the service of the respondents in the unit of the 4 th respondent alone should taken into consideration and not the total length of service. We are unable to accept this view. It is a well settled that for the purpose of seniority inter se of persons placed in the same category the total length of service should prevail over other considerations. In this view of the matter we do not find that the applicants have made out any case for interference and the application is therefore liable to be rejected. We accordingly do so. But in the circumstances of the case, we order no costs.

(Dictated in the Open Court)


(B.N. JAYASIMHA)
VICE CHAIRMAN


(D. SURYA RAO)
MEMBER (JUDICIAL)

Dt.8.3.1990


DEPUTY REGISTRAR(J)


21/3/90